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6 Attorney for:  
Deutsche Bank National Trust Company, As Trustee For BCAP Trust LLC 2007-AA3 Mortgage  
7 Pass-Through Certificates Series 2007-AA3, its assignees and/or successors, by and through its  
servicing agent Nationstar Mortgage LLC  
8  
9

10 UNITED STATES BANKRUPTCY COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND DIVISION  
13

14 In re: ) Case No. 13-42988 RLE  
15 )  
16 Barbara Jean Morgan, ) Chapter 13  
James Willie Morgan, )  
17 Debtors. ) RS No. JCW-10166  
18 ) **MOTION FOR RELIEF FROM**  
19 ) **AUTOMATIC STAY**  
20 )  
21 ) Date: 02/15/2017  
22 ) Time: 1:30PM  
23 ) Ctrm: 201  
24 ) Place: 1300 Clay Street  
Oakland, CA  
25 )  
26 )  
27 )  
28 )  
29 )

Deutsche Bank National Trust Company, As Trustee For BCAP Trust LLC 2007-AA3  
Mortgage Pass-Through Certificates Series 2007-AA3, its assignees and/or successors in interest  
("Secured Creditor" or "Movant" herein), moves this Court for an Order Terminating the  
Automatic Stay of 11 U.S.C. § 362 as to moving party (and the Trustee under the Deed of Trust  
securing moving party's claim) so that moving party and its Trustee may commence and

1 continue all acts necessary to foreclose under the Deed of Trust secured by the Debtors' property,  
2 commonly known as 2591 61st Avenue, Oakland, CA 94605, ("Property" herein).

3 As stated in the attached Declaration, the Debtors have failed to make 36 post-petition  
4 payments (02/01/14 through 01/01/17).

5 This subject Bankruptcy case is the fourth Bankruptcy filed to unfairly delay Secured  
6 Creditor from proceeding with the foreclosure of the subject Property. Secured Creditor is not  
7 adequately protected, and cause exists under 11 U.S.C. § 362 (d)(1) and/or (d)(4) for relief from  
8 the automatic stay. Secured Creditor is precluded from proceeding with the foreclosure of the  
9 subject Property because of the bad faith bankruptcy filings involving this Property.

10 Secured Creditor holds the original Promissory Note dated 02/23/2007, in the principal  
11 amount of \$443,000.00, which is secured by the Deed of Trust of the same date as signed Mary  
12 P. Jacobs ("Original Borrower").

13 Pursuant to 11 U.S.C. § 362(d)(4), Debtors' petition was used as part of a scheme to  
14 delay, hinder, and defraud creditors that involved multiple bankruptcies and the transfer of all or  
15 part ownership of the Property without the consent of Movant or court approval.

16  
17 Transfers

18 On or around July 13, 2011 a Deed of Trust with Assignment of Rents as Additional  
19 Security was irrevocably granted, transferred and assigned to Barbara Jean Morgan without the  
20 knowledge or consent of the Movant in violation of the terms of the Deed of Trust Original  
21 Borrowers signed. A true and correct copy of the unauthorized Deed of Trust with Assignment  
22 of Rents as Additional Security is attached hereto as **Exhibit "8"** and incorporated herein by  
23 reference.

24 On or around September 19, 2014, a Deed of Trust with Assignment of Rents as  
25 Additional Security was irrevocably granted, transferred and assigned to Veronica Aviles  
26 without the knowledge or consent of the Movant in violation of the terms of the Deed of Trust  
27 Original Borrowers signed. A true and correct copy of the unauthorized Deed of Trust with  
28

1 Assignment of Rents as Additional Security is attached hereto as **Exhibit “8”** and incorporated  
2 herein by reference.  
3

4 Multiple Bankruptcies

5 Barbara Jean Morgan and James Willie Morgan, (herein after referred to as “Debtors”)  
6 filed a petition under Chapter 13 of the Bankruptcy Code in the United States Bankruptcy Court,  
7 Case No. 13-42988 RLE on 05/22/2013.  
8

9 Veronica Aviles filed a previous bankruptcy petition in the above-entitled Court on  
10 09/09/2014 as Case Number 2:14-bk-27263. Said case was subsequently dismissed on  
11 09/16/2014 for Failure to File Information. A true and correct copy of the PACER Docket is  
12 attached hereto as **Exhibit “9”**.

13 Veronica Aviles filed a previous bankruptcy petition in the above-entitled Court on  
14 09/16/2014 as Case Number 2:14-bk-27683-RN. Said case was subsequently dismissed on  
15 10/16/2014 for Failure to File Information. A true and correct copy of the PACER Docket is  
16 attached hereto as **Exhibit “9”**.

17 Veronica Aviles filed a previous bankruptcy petition in the above-entitled Court on  
18 10/13/2014 as Case Number 2:14-bk-29372-RN. The Court entered an Order Terminating Case  
19 on 07/11/2016. A true and correct copy of the PACER Docket is attached hereto as **Exhibit “9”**.

20 Due the above transfers of beneficial interest in the Property and multiple bankruptcy  
21 filings, Secured Creditor has been delayed from proceeding with foreclosure. Accordingly, cause  
22 exists under 11 U.S.C. § 362(d)(1) and (d)(4) for relief from the automatic stay.

23 WHEREFORE, Secured Creditor prays for judgment as follows:

- 24 1. For an Order granting relief from the automatic stay, permitting Secured Creditor to  
25 proceed with loss mitigation including but not limited to Deed in Lieu, short sales,  
26 loan modifications or any other loan work out as allowed by state law and/or proceed  
27 with the foreclosure under Secured Creditor's Deed of Trust, and to sell the subject  
28 Property at a trustee's sale under the terms of the Deed of Trust to proceed with any  
29

1 and all post foreclosure sale remedies, including the unlawful detainer action or any  
2 other action necessary to obtain possession of the Property.

- 3
- 4 2. For an Order that the fourteen day stay described by Bankruptcy Rule 4001(a)(3) be  
5 waived.
- 6 3. For attorneys' fees and costs incurred herein.
- 7 4. If recorded in compliance with applicable state laws governing notices of interests or  
8 liens in the Property, the Order shall be binding and effective under 11 U.S.C.  
9 §362(d)(4)(A) and (B) in any other bankruptcy case purporting to affect the Property  
10 filed not later than two (2) years after the date of entry of this Order, except that a  
11 debtor in a subsequent bankruptcy case may move for relief from this Order based  
12 upon changed circumstances or for good cause shown, after notice and a hearing.  
13 Any federal, state or local governmental unit that accepts notices of interests or liens  
14 in real property shall accept a certified copy of this Order for indexing and recording.
- 15 5. For such other relief as the Court deems proper.
- 16 6. The co-debtor stay of 11 U.S.C. §1201(a) or § 1301(a) is terminated, modified or  
17 annulled as to the co-debtor, on the same terms and conditions as to the Debtor.

18 Dated: January 25, 2017

McCarthy & Holthus, LLP

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20 By: /s/ Jennifer C. Wong  
21 Jennifer C. Wong, Esq.  
22 Attorneys for Secured Creditor  
23 Deutsche Bank National Trust Company, As  
24 Trustee For BCAP Trust LLC 2007-AA3  
25 Mortgage Pass-Through  
26 Certificates Series 2007-AA3, its assignees  
27 and/or successors, by and through its servicing  
28 agent Nationstar Mortgage LLC  
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